

**Hearing Date: September 28, 2016**  
**Hearing Time: 9:00AM**

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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IN RE:

**Case No.: 10-49601**

**FRANCIS OSINSKI &  
AYMARA OSINSKI,**

**Chapter 13**

Debtor.  
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**NOTICE OF HEARING AND APPLICATION TO RE-OPEN DEBTOR'S  
CHAPTER 13 CASE PURSUANT TO 11 U.S.C. §350(b)  
FOR THE PURPOSE OF FILING CERTIFICATION OF COMPLETION OF POST-  
PETITION INSTRUCTIONAL COURSE CONCERNING PERSONAL FINANCIAL  
MANAGEMENT – OFFICIAL FORM 423**

**PLEASE TAKE NOTICE**, that upon the annexed application, Francis Osinski and Aymara Osinski, the above-captioned Debtors (the “Debtors”), by and through their attorney of record, Todd S. Cushner, Esq. of Garvey, Tirelli & Cushner, Ltd., will move before the Honorable Kathryn C. Ferguson for the District of New Jersey at the United States Courthouse, 402 East State Street, Trenton, New Jersey 08608, on September 28, 2016 at 9:00 AM, or as soon thereafter as counsel may be heard for an Order to re-open debtor’s Chapter 13 Bankruptcy

for the purpose of filing the certification of completion of post-petition instructional course concerning personal financial management – official form 423, pursuant to 11 U.S.C. §350(b).

**PLEASE TAKE FURTHER NOTICE**, that objections, if any, to the relief sought in the application must comply with the applicable law and be served upon the undersigned with a copy to the Bankruptcy Judge's Chambers at least three (3) days prior to the return date. Unless objections are interposed, the relief sought in the application may be granted.

Dated: White Plains, New York  
August 18, 2016

**Garvey Tirelli & Cushner, Ltd.**

By: /s/ Todd S. Cushner  
Todd S. Cushner, Esq.  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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IN RE:

**Case No.: 10-49601**

**FRANCIS OSINSKI &  
AYMARA OSINSKI,**

**Chapter 13**

Debtor.

-----X

**APPLICATION TO RE-OPEN DEBTOR'S CHAPTER 7 CASE  
PURSUANT TO 11 U.S.C. §350(b) FOR THE PURPOSE OF FILING CERTIFICATION  
OF COMPLETION OF POST-PETITION INSTRUCTIONAL COURSE CONCERNING  
PERSONAL FINANCIAL MANAGEMENT – OFFICIAL FORM 423**

**TO: THE HONORABLE KATHRYN C. FERGUSON  
UNITED STATES BANKRUPTCY JUDGE:**

Francis Osinski and Aymara Osinski, the above-captioned Debtors (the “Debtors”), by and through their attorney of record, Todd S. Cushner, Esq., of Garvey Tirelli & Cushner, Ltd., hereby files this application to re-open their Chapter 13 case pursuant to 11 U.S.C. § 350(b), and respectfully represents the following:

**I. INTRODUCTION**

1. On or about December 23, 2010, a voluntary petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) was filed on behalf of

the Debtors with the Clerk of this Court and the case was referred to the Bankruptcy Judge herein.

2. Albert Russo was appointed Chapter 13 Trustee (the “Trustee”). The Trustee became the permanent Trustee at the meeting of creditors pursuant to Section 341 of the bankruptcy code.
3. Debtors have not received a discharge from bankruptcy due to failure to complete certification of post-petition instructional course concerning personal financial management – official form 423.
4. Due to family issues, the Debtors were late on taking the post-petition instructional course concerning personal financial management – official form 423.
5. Debtors were able to complete their post-petition instructional course concerning personal financial management – official form 423 on August 10, 2016.
6. The Debtors through counsel, The GTC Firm, hereby respectfully moves this court to reopen their Chapter 13 case for the purpose of certification of completion filing post-petition instructional course concerning personal financial management – official form 423.

## **II. THE APPLICATION**

1. By this application (the “Application”), the Debtors seek to re-open their Chapter 13 bankruptcy proceeding pursuant to 11 U.S.C. Section 350(b) in order to allow the Debtor the opportunity to completion the filing of the post-petition instructional course concerning personal financial management – official form 423.

2. Section 350(b) of the Bankruptcy Code provides that a bankruptcy case may be reopened “to administer assets, to accord relief to the debtor, or for other cause.” 11 U.S.C 350§(b). Although the Bankruptcy Code does not provide a definition of “cause,” courts have held that cause to reopen a bankruptcy case includes the need to amend schedules to add assets or creditors, or to commence lien avoidance action. *See Patriot Portfolio, LLC v. Weinstein (In re Weinstein)*, 164 F.3d 677, 686. n. 7 (1st Cir.1999)(lien avoidance action); *Katz v. I.A. Alliance Corp. (In re I. Appel Corp.)*, 300 B.R. 564 (S.D.N.Y. 2003), *aff’d*, 104 Fed.Appx. 199 (2d Cir. 2004) (adding asset); *In re Moyette*, 231 B.R. 494, 497 (E.D.N.Y. 1999) (adding creditor).
3. The relief that the Debtors seek by this application is the filing of the certification of completion of post-petition instructional course concerning personal financial management – official form 423.
4. Counsel herein believes that the Debtors should have an opportunity to cure this deficiency and obtain their discharge as their chapter 13 plan was fully performed.
5. Granting the Debtors the relief requested herein does not prejudice any creditors as the Debtors have completed their chapter 13 plan in full.

### **III. JURISDICTION**

6. This Court has jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334 venue in this District is proper pursuant to 28 U.S.C. §1408. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105 and 350 and Rule 5010 of the Federal Rules of Bankruptcy Procedure.

#### **IV. NOTICE AND WAIVER OF MEMORANDUM OF LAW**

7. No prior Application to Reopen Debtor's Chapter 13 case had been made before this Court.
8. Notice of this motion was served on all creditors, the Chapter 13 Trustee, the Office of the United States Trustee and all parties who have filed a notice of appearance.

**WHEREFORE**, the Debtors respectfully requests that this Court enter an order re-opening their Chapter 13 case; and granting such other and further relief as this court deems just and proper.

Dated: White Plains, New York  
August 18, 2016

**Garvey Tirelli & Cushner, Ltd.**

By: /S/Todd S. Cushner  
Todd S. Cushner, Esq.  
*Attorney for the Debtor*  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

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IN RE:

**Case No.: 10-49601**

**FRANCIS OSINSKI &  
AYMARA OSINSKI,**

**Chapter 13**

Debtor.

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**ORDER REOPENING CHAPTER 13 CASE UNDER 11 U.S.C. § 350(b)**

Upon the motion (the “Motion”) of Francis Osinski and Aymara Osinski, the Chapter 13 Debtors (the “Debtors”) in the above-captioned closed case, for an order reopening this Chapter 13 case for the sole purpose of certification of completion of post-petition instructional course concerning personal financial management – official form 423 and, after due notice, there being no objections to the requested relief; and upon the record of the hearing held by the Court on the Motion; and, after due deliberation, sufficient cause appearing therefor, it is hereby

**ORDERED**, that the Motion is granted and, pursuant to 11 U.S.C. § 350(b), this case is reopened for the sole purpose of the certification of completion of post-petition instructional course concerning personal financial management – official form 423; and it is further

**ORDERED**, that, if no such objection or request for an extension is timely filed, the Debtors shall so notify the Clerk of the Court in writing, attaching a copy of this Order, and an order will be entered granting a discharge and closing this case.

Dated: \_\_\_\_\_, 2016  
\_\_\_\_\_, New Jersey

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Honorable Kathryn C. Ferguson,  
United States Bankruptcy Judge, SDNY